

20-cv-10575

JLM Couture, Inc., v. Hayley Paige Gutman  
Swain, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 21<sup>st</sup> day of February, two thousand twenty-three.

Present:

Guido Calabresi,  
Michael H. Park,  
William J. Nardini,  
*Circuit Judges.*

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JLM Couture, Inc.,

*Plaintiff-Counter-Defendant-  
Counter-Claimant-Appellee,*

v.

21-2535, 22-549, 22-1694

Hayley Paige Gutman,

*Defendant-Counter-Claimant-  
Appellant,*

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On March 17, 2022, Appellant filed a notice of appeal from the district court's February 14, 2022 order modifying the preliminary injunction. *See* Dist. Ct. Dkt. 326; *JLM Couture, Inc. v. Gutman*, No. 22-549 (2d Cir.) ECF No. 1. This notice of appeal divested the district court of jurisdiction "as to any matters involved in the appeal," beyond making modifications to the preliminary injunction as necessary to preserve the status quo. *New York v. United States Dep't of Homeland Sec.*, 974 F.3d 210, 215 (2d Cir. 2020) (citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)). On July 25, 2022, the district court again modified the preliminary injunction. *See* Dist. Ct. Dkt. 403, 404. Appellant filed another notice of appeal. *JLM Couture, Inc. v. Gutman*, No. 22-1694 (2d Cir.) ECF No. 1.

It is hereby ORDERED that the appeal docketed under No. 22-549 is DISMISSED as moot because the conditions of the preliminary injunction at issue expired on August 1, 2022. In the

appeal docketed under No. 22-1694, it is further ORDERED that the district court's orders of July 25, 2022 (Dist. Ct. Dkt. 403 & 404) are VACATED because the filing of the notice of appeal in No. 22-549 appears to have divested the district court of jurisdiction over matters involved in the appeal. *See United States Dep't of Homeland Sec.*, 974 F.3d at 215. The case is REMANDED pursuant to the procedures adopted in *United States v. Jacobson*, 15 F.3d 19 (2d Cir. 1994), with instructions for the district court to reissue the July 25, 2022 orders excepting any aspects that have expired in the interim. After the district court does so, either party may reinstate this appeal by submitting a letter to this Court so requesting no later than 10 days after the district court's determination. The Clerk shall direct any such appeal to this panel.

Oral argument in the appeal docketed under No. 21-2535, previously scheduled for February 27, 2023, is hereby ADJOURNED. That appeal will be held in abeyance pending reinstatement of the appeal in No. 22-1694.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk of Court

  
Catherine O'Hagan Wolfe

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

  
Catherine O'Hagan Wolfe